

110TH CONGRESS
1ST SESSION

H. R. 1474

To amend title XVIII of the Social Security Act to require the sponsor of a prescription drug plan or an organization offering an MA–PD plan to promptly pay claims submitted under part D and to prohibit the inclusion of certain identifying information of pharmacies on explanatory prescription drug information and cards distributed by prescription drug plan sponsors.

IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 2007

Mr. BERRY (for himself, Ms. HERSETH, Mr. JONES of North Carolina, Mr. WICKER, Mr. ALLEN, Mr. ADERHOLT, Mr. ROSS, Mr. GRAVES, Mrs. EMERSON, Mr. COURTNEY, and Mr. MORAN of Kansas) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act to require the sponsor of a prescription drug plan or an organization offering an MA–PD plan to promptly pay claims submitted under part D and to prohibit the inclusion of certain identifying information of pharmacies on explanatory prescription drug information and cards distributed by prescription drug plan sponsors.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fair and Speedy
5 Treatment (FAST) of Medicare Prescription Drug Claims
6 Act of 2007”.

7 **SEC. 2. PROMPT PAYMENT BY MEDICARE PRESCRIPTION**
8 **DRUG PLANS AND MA-PD PLANS UNDER**
9 **PART D.**

10 (a) APPLICATION TO PRESCRIPTION DRUG PLANS.—
11 Section 1860D–12(b) of the Social Security Act (42
12 U.S.C. 1395w–112 (b)) is amended by adding at the end
13 the following new paragraph:

14 “(4) PROMPT PAYMENT OF CLEAN CLAIMS.—

15 “(A) PROMPT PAYMENT.—Each contract
16 entered into with a PDP sponsor under this
17 subsection with respect to a prescription drug
18 plan offered by such sponsor shall provide that
19 payment shall be issued, mailed, or otherwise
20 transmitted with respect to all clean claims sub-
21 mitted under this part within the applicable
22 number of calendar days after the date on
23 which the claim is received.

24 “(B) DEFINITIONS.—In this paragraph:

1 “(I) CLEAN CLAIM.—The term ‘clean
2 claim’ means a claim, with respect to a
3 covered part D drug, that has no apparent
4 defect or impropriety (including any lack
5 of any required substantiating documenta-
6 tion) or particular circumstance requiring
7 special treatment that prevents timely pay-
8 ment from being made on the claim under
9 this part.

10 “(ii) APPLICABLE NUMBER OF CAL-
11 ENDAR DAYS.—The term ‘applicable num-
12 ber of calendar days’ means—

13 “(I) with respect to claims sub-
14 mitted electronically, 14 calendar
15 days; and

16 “(II) with respect to claims sub-
17 mitted otherwise, 30 calendar days.

18 “(c) INTEREST PAYMENT.—If payment is
19 not issued, mailed, or otherwise transmitted
20 within the applicable number of calendar days
21 (as defined in subparagraph (B)) after a clean
22 claim is received, interest shall be paid at a rate
23 used for purposes of section 3902(a) of title 31,
24 United States Code (relating to interest pen-
25 alties for failure to make prompt payments), for

1 the period beginning on the day after the re-
2 quired payment date and ending on the date on
3 which payment is made.

4 “(D) PROCEDURES INVOLVING CLAIMS.—

5 “(I) CLAIMS DEEMED TO BE CLEAN
6 CLAIMS.—

7 “(I) IN GENERAL.—A claim for a
8 covered part D drug shall be deemed
9 to be a clean claim for purposes of
10 this paragraph if the PDP sponsor in-
11 volved does not provide a notification
12 of deficiency to the claimant by the
13 10th day that begins after the date on
14 which the claim is submitted.

15 “(II) NOTIFICATION OF DEFICI-
16 CIENCY.—For purposes of subclause
17 (II), the term ‘notification of defi-
18 ciency’ means a notification that
19 specifies all defects or improprieties in
20 the claim involved and that lists all
21 additional information or documents
22 necessary for the proper processing
23 and payment of the claim.

24 “(ii) PAYMENT OF CLEAN PORTIONS
25 OF CLAIMS.—A PDP sponsor shall, as ap-

1 appropriate, pay any portion of a claim for a
2 covered part D drug that would be a clean
3 claim but for a defect or impropriety in a
4 separate portion of the claim in accordance
5 with subparagraph (A).

6 “(iii) OBLIGATION TO PAY.—A claim
7 for a covered part D drug submitted to a
8 PDP sponsor that is not paid or contested
9 by the provider within the applicable num-
10 ber of calendar days (as defined in sub-
11 paragraph (B)) shall be deemed to be a
12 clean claim and shall be paid by the PDP
13 sponsor in accordance with subparagraph
14 (A).

15 “(iv) DATE OF PAYMENT OF CLAIM.—
16 Payment of a clean claim under subpara-
17 graph (A) is considered to have been made
18 on the date on which full payment is re-
19 ceived by the provider.

20 “(E) ELECTRONIC TRANSFER OF
21 FUNDS.—A PDP sponsor shall pay all clean
22 claims submitted electronically by an electronic
23 funds transfer mechanism.”.

1 (b) APPLICATION TO MA-PD PLANS.—Section
2 1857(f) of such Act (42 U.S.C. 1395w-27) is amended
3 by adding at the end the following new paragraph:

4 “(3) INCORPORATION OF CERTAIN PRESCRIP-
5 TION DRUG PLAN CONTRACT REQUIREMENTS.—The
6 provisions of section 1860D-12(b)(4) shall apply to
7 contracts with a Medicare Advantage organization in
8 the same manner as they apply to contracts with a
9 PDP sponsor offering a prescription drug plan
10 under part D.”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to contracts entered into or re-
13 newed on or after the date of the enactment of this Act.

14 **SEC. 3. RESTRICTION ON CO-BRANDING.**

15 (a) APPLICATION TO PRESCRIPTION DRUG INFORMA-
16 TION DISSEMINATED.—Subsection (a) of section 1860D-
17 4 of the Social Security Act (42 U.S.C. 1395w-104) is
18 amended by adding at the end the following new para-
19 graph:

20 “(5) RESTRICTION ON DISPLAYING PHARMACY
21 BRAND OR TRADEMARK INFORMATION.—

22 “(A) IN GENERAL.—It is unlawful for a
23 PDP sponsor of a prescription drug plan to dis-
24 play on any explanatory information described
25 in subparagraph (B), with respect to benefits

1 provided under this part, the brand or trade-
2 mark of any pharmacy.

3 “(B) EXPLANATORY INFORMATION DE-
4 SCRIBED.—For purposes of subparagraph (A),
5 explanatory information is each of the fol-
6 lowing:

7 “(i) Information on evidence of cov-
8 erage under this part.

9 “(ii) Information that summarizes
10 benefits provided under this part.

11 “(iii) Enrollment and disenrollment
12 forms.

13 “(iv) Enrollment and disenrollment
14 letters.

15 “(v) Pharmacy directories.

16 “(vi) Formulary information.

17 “(vii) Grievance letters provided pur-
18 suant to subsection (f), coverage deter-
19 mination letters provided pursuant to sub-
20 section (g), and appeals letters provided
21 pursuant to subsection (h).

22 “(viii) Exceptions process letters.

23 “(ix) Information contained in sales
24 descriptions or sales presentations.”.

1 (b) APPLICATION TO ENROLLEE CARDS.—Subsection
2 (b)(2)(A) of such section is amended by adding at the end
3 the following new sentence: “It is unlawful for a PDP
4 sponsor of a prescription drug plan to display on such a
5 card the name, brand, or trademark of any pharmacy.”

6 (c) EFFECTIVE DATE.—

7 (1) EXPLANATORY INFORMATION.—With re-
8 spect to explanatory information dispensed on or
9 after the date of the enactment of this Act, the
10 amendment made by subsection (a) shall apply to
11 such information on and after the date that is 90
12 days after such date of enactment.

13 (2) ENROLLEE CARDS.—With respect to cards
14 dispensed before, on, or after the date of the enact-
15 ment of this Act, the amendment made by sub-
16 section (b) shall apply to such cards on and after the
17 date that is 90 days after such date of enactment.
18 Any card dispensed before such date that is 90 days
19 after the date of enactment that violates the second
20 sentence of section 1860D–4(b)(2)(A) of the Social
21 Security Act, as added by subsection (b), shall be re-
22 issued by such 90-day date.

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